

WorldCom agrees that both of these options -- special access and self-supply to one's own local customers -- eventually have the potential to impose a measure of competitive pressure on ILEC originating switched access rates. In that sense originating access is different from terminating access, which the IXC can virtually never avoid. But it would be a serious mistake to predicate access reform decisions here on the expectation that competitive choices for "originating switched access" service per se will be available. Rather the Commission must take actions that foster the ability of IXCs to avoid paying ILECs for switched access at all -- that is, actions that facilitate local competition. And importantly, the Commission must retain its regulation of ILEC originating switched access until there is sufficient local competition -- in fact, sufficient full service competition -- to protect consumer interests.

This is a crucial point. The Commission should remember that the access charge system was set up to create stand-alone long distance competition even though the local exchange remained a monopoly. The access charge rules have worked in that regard, and the interexchange market is fully competitive. In particular, the vast majority of consumers enjoy competitive long distance choice today because they can be served over originating switched access. Their traffic

[Footnote continued]

approach also will facilitate reduction of a stand-alone long distance company's originating access cost.

volumes do not justify special access, but that does not prevent them from obtaining access to an average of more than six IXC competitors no matter where in the country they reside.

Local competition per se does not change the dependence of stand-alone long distance offerings on bottleneck switched access to calling and called parties. Rather, local competition creates the opportunity for IXCs to become full service carriers, and in that way avoid ILEC originating charges. It follows that regulation of ILEC originating switched access should continue until such facilities-based full service competition is well developed 17/, and consumers have multiple full service options to choose from. 18/ Only at that point would it be safe to

17/ As noted throughout, a carrier is not a full service competitor for these purposes when it merely resells the ILEC's own retail local products, without provisioning access as well.

18/ The Commission should not prejudge how rapidly full service competition will emerge. However, one point is clear. RBOCs will become full service carriers overnight upon removal of the interLATA service restriction. They will continue to serve substantially all of their customers' needs for local and intraLATA, can immediately handle customers' in-region interLATA business over their own networks, and have entered into network facilities agreements with WorldCom and other IXCs to transport out-of-region traffic. In contrast, other carriers can become full service competitors only insofar as they can develop the ability to provide local service, and only insofar as they then win all of the customer's business on a line-by-line basis. This will take time even assuming that the local competition provisions of the Act are implemented as provided in the Commission's Local Competition Order. Reversal of that Order obviously could magnify the problem.

WorldCom will not discuss the numerous inherent market advantages of the RBOCs further here. For present purposes, the main point for the Commission to remember is that the path to full service for ILEC competitors is long and

[Footnote continued]

consider withdrawing regulation of originating switched access. The issue then, as now, would be the potential impact on consumers. Arguably, if consumers have multiple full service choices, there would be less harm if incumbent LECs exploit their bottleneck over their local customers to charge stand-alone IXCs unreasonable and discriminatory access rates. If the result of such ILEC behavior is the elimination of stand-alone long distance service, consumers at least would still have competitive full service options.

e. Bulk Billed Charges (never subject to competition).

Finally, ILECs are arguing for the right to impose access charges on access customers and competitors that apply whether or not access service is purchased at all. By definition such charges cannot be subject to competitive pressure. In that sense they are completely inconsistent with both the underlying premise of access reform, and the specific mandates of the Act 19/. WorldCom explains below why ILECs should not be guaranteed the recovery of any access revenues in this or any other fashion.

WorldCom recognizes that for some period ILECs will have a “de facto guarantee” of most of their current access revenue streams even without bulk

[Footnote continued]

uncertain, and hence that the RBOCs will enjoy a dominant access position for some time.

19/ See, e.g., 47 U.S.C. §§ 201, 202, and 254.

billing or similar charges. It will take substantial time for local competition to develop broadly, even assuming full implementation of the 1996 Act and the Local Competition Order. During the transition from monopoly to full service competition the ILECs' "de facto guarantee" will gradually erode. But that is a natural product and goal of market competition. Revenue guarantees granted by regulators are the antithesis of competition. They have absolutely no place in a post-Act world.

B. Governing Principles for Access Reform.

The foregoing discussion of the structural limitations on access competition establishes the foundation for further consideration of access reform. This proceeding necessarily has ambitious goals. The Commission is seeking comments simultaneously on (i) how access rate structures should be amended to support competition; (ii) how access prices should be reformed to better reflect cost and minimize opportunities for anticompetitive conduct; and (iii) how incumbent LECs should be given flexibility to revise their access pricing as competition evolves.

WorldCom will address each of these issues in more detail below, following the structure of the Notice. However, we also suggest here three general principles that should inform the Commission's decision-making during the transition from monopoly to competition.

1. Permanent Access Reform Will Be Achieved Only Through Full Implementation Of Local Competition.

The first principle follows directly from the discussion above. The only way available to reduce ILEC market power over access is to fully implement the Telecom Act. The Act provides the tools needed to create subscriber line and dedicated access competition -- through deployment and interconnection of new network facilities and use of ILEC network elements. And the Act provides the other tools needed for local service competition, which in turn can provide the means to avoid ILEC originating access charges.

It follows that as the Commission considers changes to the current ILEC access rate structure, it should reform that structure to be more consistent with the ways that costs are incurred in a competitive world. As the Commission reforms access pricing, it should focus first on the terminating end, where access competition cannot even theoretically occur.

This principle also has relevance for any future pricing flexibility the Commission may grant ILECs predicated on the existence of market competition. As a general matter, such competition will not exist except insofar as IXC's are able to avoid ILEC charges through full implementation of the Act. It follows, for example, that reforms predicated on giving ILECs flexibility to meet competition must wait until other carriers are able to serve end users without purchasing ILEC originating access -- i.e., because they can win the customer on a local service basis. Otherwise, ILECs only will reduce access rates for their own affiliates or favored customers.

Put another way, the appropriateness of ILEC access pricing flexibility generally should be tested by looking at: (a) the competitiveness of the relevant full service market from the perspective of end user consumers, and not (b) the alleged competitiveness of access from the perspective of carriers who purchase access. The latter test would not capture the limits on the ability of stand-alone IXCs to achieve access choice. The former test focuses on what matters to consumers: whether competitive pressures have been brought to bear on the access input to interexchange rates. Such pressures arise from local competition itself.

2. Incumbent LECs Must Not Be Guaranteed Recovery Of Revenues Free From Competition.

Decisions made here must recognize that real competition (local, interexchange or both) cannot proceed so long as the incumbent LECs are guaranteed the ability to impose non-cost-based charges on their prospective competitors. Therefore, at a minimum, every access revenue stream of the incumbent LECs must be subject to at least the threat of competition in a post-1996 Act world. This principle is particularly important for any revenue stream that exceeds TSLRIC. To the extent that the Commission chooses to permit incumbent LECs the opportunity to recover amounts in excess of TSLRIC, those amounts must be recovered through access rate elements that will be subject to the disciplines of competition once that competition begins to develop. 20/

20/ Thus, for example, it would not be at all appropriate to impose such charges on terminating access.

WorldCom recognizes the tension in the Notice over incumbent LEC complaints that efficient access pricing may not recover all of the costs that the separations rules allocate to the interstate jurisdiction. In part this assumption reflects problems with the separations process that, unfortunately, must be addressed in a separate proceeding. We discuss this matter below.

WorldCom supports actions to move incumbent LEC rates to cost as soon as possible. Unreasonably high rates impose inefficiencies on our customers, and create pools for incumbent LEC discrimination and cross-subsidization. But we also are practical. We recognize that a prolonged effort to represcribe all incumbent LEC rates would be time consuming and contentious. Local competition itself could be significantly delayed by such an effort.

To avoid such problems, WorldCom is willing to test whether local competition can develop in a manner that brings competitive pressure on incumbent LEC access. The access rate changes proposed below establish a sound structure for such an experiment. If local competition develops (through the availability of unbundled elements and related implementation of the 1996 Act), then incumbent LECs should experience increased pressure on access rates. On the other hand, if local competition does not arrive on a timely basis, the Commission should implement further prescriptions.

WorldCom would accept this market-targeted approach, however, only so long as all access rate elements are at least potentially subject to competition. 21/ The Commission would violate both the spirit and language of the Act if it guaranteed incumbent LECs the ability to recover above-TSLRIC revenue streams free from competitive pressure.

3. Additional ILEC Pricing Flexibility Should Be Subject To Checks On Discrimination And Cross-Subsidization.

The Notice is on the right track when it seeks to link ILEC pricing flexibility with the evolution of actual local competition. In this way the Commission can counter-balance (a) inevitable ILEC incentives to discriminate and cross-subsidize with (b) new incentives to comply with the letter and spirit of the 1996 Act with respect to interconnection. Ultimately, access reform will succeed or fail depending on the adequacies of those incentives, as well as continuing Commission enforcement to ensure that the promise of local competition is met.

WorldCom does not oppose access reform that gives the incumbent LEC the ability to price its access services closer to cost on a non-discriminatory basis. LDDS WorldCom has supported geographic rate deaveraging in the past,

21/ WorldCom would be willing to make this concession to non-cost-based pricing in order to achieve baseline access reform necessary for local competition, even though effective local competition itself will be slow to develop, and hence the ILECs would continue to be assured of capturing these revenues for some time.

and MFS recently filed a petition asking that incumbent LECs be ordered to deaverage their unbundled loop element rates. 22/

On the other hand, premature grant of certain forms of pricing flexibility, such as contract tariffs, could have the opposite effect. They could allow the ILECs to discriminate in favor of their affiliates or certain favored customers, without bringing overall access rates closer to cost. Premature pricing flexibility also could facilitate unreasonable cross-subsidization of more competitive services in ways that would stymie the very local competition that is the Commission's ultimate goal.

The 1996 Act changes the primary market problems that access regulation must address. Put simply, in the pre-Act world, ILEC access rate levels were the primary problem because ILECs were guaranteed a monopoly for this service. Significantly, ILEC access rate discrimination and cross-subsidization were much less important issues. Because the RBOCs were not in the interLATA business, they had little incentive to discriminate in their access pricing. 23/ And because ILECs faced no local rivals, at least until recent years, their incentives to

22/ MFS Petition for Preemption and Declaratory Ruling on Geographical Deaveraging, CCB-CPD 97-1 (filed Dec. 20, 1996). See Public Notice, DA 97-34 (rel. Jan. 8, 1997).

23/ In contrast, discrimination has been a serious problem in the intraLATA toll market, where LECs have used high access rates and other discrimination devices to preserve a virtual monopoly in most locations.

engage in anti-competitive cross-subsidization were limited. 24/ Excessive access charges led to inefficiencies in interstate telecommunications by increasing the cost of this key input. But so long as those inefficiencies were shared among all IXC's equally, they did not otherwise damage competition in the long distance market.

The 1996 Act completely changes this dynamic. It provides the tools for eventual reduction of ILEC access rates through local competition. But it creates new incentives for the ILECs to prevent such competition. Discrimination concerns multiply as the RBOCs prepare to enter the interLATA market in competition with their access customers, following on the successful heels of GTE and other ILECs. Similarly, CAPs have shown that ILECs already were using the flexibility they enjoy under price cap regulation to cross-subsidize services where the limited entry made possible by expanded interconnection was under way. 25/ But the 1996 Act magnifies those incentives by giving competitive carriers a greater potential to enter the local market. The more the ILECs begin to face competition in certain markets, the more incentive they have to use cross-subsidies from less competitive markets to fight such entry.

24/ This did not prevent the incumbent LECs from seeking access pricing flexibility through immediate appeals to alleged bypass. But the FCC was able to keep its focus on overall access rate levels.

25/ See, e.g., Investigation of Ameritech's New Expanded Interconnection Offerings, CC Docket No. 96-185, Order at ¶ 12 (Com. Car. Bur., rel. Aug. 29, 1996) (suspending Ameritech's collocation tariff based in part on MFS' petition alleging that Ameritech was using excessive collocation rates to cross-subsidize competitive offering).

II. BASELINE CHANGES: RATE STRUCTURE AND RATE LEVELS.

[Notice, Section III]

WorldCom strongly agrees that the Commission should adopt rate structure reforms to bring the incumbent LECs' interstate access charges closer to cost as a starting point for competitive development. Rate structure reforms are necessary to foster economic efficiency, especially given changes in competitive conditions, as well as in the technologies used to provide local telecommunications networks.

In addition, the Commission should require the incumbent LECs to make certain minimum changes to their interstate access rate levels. We agree that ILEC access rates grossly exceed cost today. The real issue is how much and how fast local competition can impact those rates. Our primary concern is that the difficulties of prescriptive access reform not inadvertently delay local competition.

WorldCom proposes that, as a first step, the Commission focus its prescriptive efforts on those access rate elements least sensitive to competitive pressures. For example, tandem switching rates were never established in the first place in an economically rational matter, they have a significant impact on long distance competition, and they will not face near-term competitive pressure. 26/ Rates for terminating local switching are never likely to be subject to market

26/ Competitive Telecommunications Ass'n v. FCC, 87 F.3d 522, 531-32 (D.C. Cir. 1996) ("CompTel v. FCC").

discipline. 27/ Finally, the Commission should require the ILECs to eliminate the transport interconnection charge (“TIC”) immediately, or within a very short transition period. During any such period, the Commission should require the ILECs to recover that charge under a flat rate, per line structure that avoids distorting local or long distance competition, and in a way that should eventually create competitive pressure for ILECs to reduce that charge. As discussed in Section III, additional rate level prescription can be reserved to a later date, and applied as necessary if local competition fails to develop as hoped.

A. Subscriber Loop.

[Notice, Section III-B]

1. The Commission Must Expeditiously Eliminate Per-Minute Recovery of the Costs of Subscriber Loops.

One of the most serious problems with the current access charge rate structure is the recovery of dedicated subscriber loop costs through a traffic sensitive rate, the per-minute carrier common line (“CCL”) charge. Over the past 15 years or so, the Commission has repeatedly recognized that the cost of the subscriber loop does not vary based on the quantity of traffic routed over it. 28/ A subscriber loop -- the line connecting an end user’s premise with the incumbent

27/ Notice, ¶¶ 271-72.

28/ See, e.g., Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, FCC 96J-3 ¶ 775 (rel. Nov. 8, 1996) (“Universal Service Recommended Decision”).

LEC central office containing the local switch -- is a fixed facility that is dedicated to the end user. Once a loop has been ordered and installed, the incumbent LEC incurs no additional costs for additional traffic passing over that loop.

As the Commission has long recognized, the recovery of loop costs through the per-minute CCL charge was economically inefficient even in an environment in which no competition was expected for the incumbent local carriers. 29/ To be brief, the charge functions like a “tax” on interstate long distance usage, and thus raises the price of every long distance minute, represses long distance usage, and causes enormous economic losses to consumers and to society as a whole. 30/ Eliminating the per-minute CCL charge would lead directly to lower long distance rates, which would confer substantial benefits on consumers. Indeed, the lower long-distance rates resulting from elimination of the per-minute CCL would probably increase network subscribership and thus help advance the Commission’s universal service goals. 31/

29/ See id., ¶¶ 775-76.

30/ See, e.g., MTS and WATS Market Structure, Memorandum Opinion and Order, 97 FCC 2d 682, ¶¶ 5-7 (1983); MTS and WATS Market Structure, Third Report and Order, 93 FCC 2d 241, ¶¶ 28-29.

31/ The Commission has recognized the empirical link between non-subscribership and disconnection for failure to pay long distance bills. See Amendments of the Commission’s Rules and Policies to Increase Subscribership and Usage of the Public Switched Network, Notice of Proposed Rulemaking, 10 FCC Rcd 13003, 13005, ¶ 10 (1995).

But the per-minute CCL charge is even more problematic in the context of emerging competition for local telephony and eventually for full-service telecommunications offerings. The charge functions as an implicit cross-subsidy from long distance access to local service, and from high-volume users to low-volume users. These subsidy flows will be unsustainable as competition advances, and are likely to distort the markets for local and long distance service. Moreover, these subsidy flows are inconsistent with the directive of Section 254 of the 1996 Act, which contemplates that any subsidies to support universal service will be “specific, predictable, and sufficient,” as well as explicit, and collected on an “equitable and nondiscriminatory” basis. 32/ Section 254 also prohibits cross-subsidies from non-competitive services to competitive services. 33/ Consistent with this requirement, the Joint Board has concluded that universal service support must be “competitively neutral.” 34/

In the Universal Service proceeding, the Joint Board recommended elimination of the per-minute CCL charge and recovery of all subscriber loop costs through flat rate charges. 35/ WorldCom applauds the Commission’s apparent

32/ 47 U.S.C. § 254(b)(4), (b)(5), (d) and (e). See also Universal Service Recommended Decision, ¶¶ 755, 777-79 & 784.

33/ 47 U.S.C. § 254(k).

34/ Universal Service Recommended Decision at ¶ 23.

35/ See Universal Service Recommended Decision ¶¶ 776.

determination, in this proceeding, to implement that recommendation. LDDS WorldCom, MFS, and virtually all other participants in the telecommunications industry supported this conclusion in the Universal Service proceeding, and agreed that the most efficient way to recover these costs would be through flat rate charges to subscribers -- i.e., elimination of the caps on the subscriber line charge ("SLC") and full recovery through that charge of all interstate-allocated subscriber loop costs. ^{36/} There is no reason why costs that local carriers incur to provide subscribers access to all telecommunications services, including local, intrastate toll, and interstate long distance, as well as information services, should be borne by one class of service providers -- interstate IXC's -- rather than by the subscribers themselves.

2. The Costs of Business Lines and Second and Additional Residential Lines Should Be Recovered Through Flat Rates to End Users.

WorldCom submits that the incumbent LECs should be required to recover the interstate-allocated cost of all subscriber loops on a flat rate basis immediately. The most straightforward way to accomplish this goal with respect to business lines and second and additional residential lines ^{37/} is to eliminate the

^{36/} See id., ¶ 763 & n.2443.

^{37/} ILECs have the ability to distinguish between first and second or additional residential lines today when they sell all lines. It is less clear what treatment should apply if an incumbent LEC provides one line and a competing carrier provides a second line. The most straightforward way to address this issue, of course, is to eliminate the SLC cap for all residential subscribers.

caps on the SLCs that apply to these lines (currently \$6.00 for multi-line business customers and \$3.50 for residential and single-line business customers). 38/

We believe that no transition period is necessary for the accomplishment of this rate structure change. 39/ (Nor should the Commission consider simply raising the level of the SLC caps for these lines, as opposed to eliminating the caps altogether.) The increase in flat rates to be paid by these customers, on average, are likely to be more than offset by the long distance rate reductions that should result from this rate structure change. The Commission should not delay these benefits for consumers.

The cap on the SLC should be eliminated for single line business customers, as well as multi-line business. There is no policy justification, and no basis in the 1996 Act or other provision of law, for conferring subsidies upon any

38/ In response to the question in the Notice (§ 65), WorldCom believes that this rate structure change should be required as a baseline change, regardless of what steps the incumbent LEC has or has not taken to facilitate the development of local competition. While we argue that the per minute CCL charge should be eliminated, to the extent such a charge remains, it should not apply to traffic that originates from or terminates to these customers. Because long distance companies cannot adjust their switched service rates on a line by line basis, these customers (or the long distance carriers that serve them) still would be forced to bear an implicit, competitively distortive cross-subsidy to support other customers, in violation of Section 254, but at least overall rates would be reduced. Again, the better result is to eliminate the per minute CCL in favor of the per line charges.

39/ Notice, § 66. But if any transition is adopted, it should be as short as possible (e.g., no more than 12-18 months unless the change in monthly rates in any year is more than \$5.00).

group of business customers, and retention of the cap on the SLC would constitute a subsidy.

3. The Costs of Primary Residential Lines Also Should Be Recovered Through Flat Rates.

WorldCom also believes that, ideally, the cap on SLCs for primary residential lines should be eliminated, and that those SLCs should be increased to fully recover the cost of subscriber loops allocated to the interstate jurisdiction. There is a consensus within the telecommunications industry, consistent with past statements of the Commission, that this solution would result in the cost-causers bearing this cost in a manner that reflects the way it is incurred, and therefore would advance the public interest and foster economic efficiency. 40/ We urge the Commission to do what it knows is right.

In the alternative, however, if the Commission decides that some recovery of loop costs from IXC's should be maintained, then WorldCom supports the alternative described in the Notice -- conversion of the CCL charge from a per-minute charge to a flat rate per presubscribed line. This would best approximate the economically correct solution (a SLC that fully recovers cost) -- but only if IXC's are permitted to recover subscriber loop costs in a manner that reflects the way that they are incurred.

40/ Universal Service Recommended Decision, ¶ 763 & n.2443.

If the Commission decides to recover subscriber loop costs through a flat rate charge on IXC's, then it must exercise its authority under Section 10 of the Act to forbear enforcement of the geographic averaging requirement of Section 254(g) with respect to the IXC's' recovery of those costs from their subscribers. ^{41/} IXC's should be free to recover the cost of a subscriber's ILEC loop from that subscriber, either through a flat charge per line or through some other rate structure mechanism, as the long distance market dictates. But unless the Commission forbears with respect to the application of Section 254(g) to these costs, IXC's that operate nationally will be forced to average together numerous subscribers' loop costs, and thus use long distance rates as a vehicle for cross-subsidies that run counter to the overall policies of Section 254(b) and (c).

Forbearance with respect to the geographic averaging requirements as applied to IXC's' recovery of flat rate CCL charges is consistent with the standards set forth in Section 10. ^{42/} First, geographic averaging of flat-rate CCL recovery by

^{41/} Notice, ¶ 63.

^{42/} The Commission did not squarely address this issue in its order establishing the geographic rate averaging rules for IXC's pursuant to Section 254(g). See Policy and Rules Concerning the Interstate, Interexchange Marketplace: Implementation of Section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96-61, Report and Order (released Aug. 7, 1996) ("Geographic Averaging Order"). The Commission merely stated, "We are not persuaded that we should establish an exception to our general rate averaging rule based on the existence of competing regional carriers that may be able to offer lower rates for interexchange services because of lower access charges or other costs. . . . Commenters have failed to justify this exception under Section 10 because they have based their claims entirely on generalized assertions of the alleged need for a competitive exception to

IXCs is not necessary to ensure that IXCs' rates are "just and reasonable and are not unjustly or unreasonably discriminatory." 43/ To the contrary, forbearance is necessary to prevent IXCs that operate nationally from forcing their customers connected through low-cost LECs to subsidize the subscriber loop costs of customers of high-cost LECs through long distance charges.

Second, geographic averaging of IXCs' recovery of subscriber loop costs "is not necessary for the protection of consumers" in this context. 44/ To begin with, the IXC's own rate (net of access) remains the same; the IXC-related portion of the bill to consumers is not affected. Consumers also will be protected by: (1) the

[Footnote continued]

geographic averaging requirements." Id., ¶¶ 38-39 (emphasis added). By contrast, the relevant facts here -- in particular, IXCs' recovery from customers of a flat rate CCL charge that IXCs are to pay to incumbent LECs to recover non-traffic sensitive subscriber loop costs -- were not at issue in that proceeding. The limited forbearance we seek would not risk "widespread deaveraged rates for interexchange services [that] could produce unreasonably high rates for some subscribers." Id., ¶ 39. Rather, at most, it would lead to a very limited amount of deaveraging, and any overall increases in rates paid by certain subscribers (net of reduced long distance rates) would reflect the costs that incumbent LECs incur to provide service to those subscribers. To the extent those costs are unreasonably high, universal service funding pursuant to Section 254(g) should ameliorate the problem, eliminating any difficulties with forbearance. Finally, even if the conclusions in the Geographic Averaging Order cannot be distinguished from the forbearance we seek here, the Commission should now overrule that order to the extent sought, and for the reasons stated, in the text of these comments.

43/ Section 10(a)(1), 47 U.S.C. § 160(a)(1).

44/ Section 10(a)(2), 47 U.S.C. § 160(a)(2).

retention of rate structure and pricing rules that forbid incumbent LECs from recovering more than the interstate allocation of subscriber loop costs through charges to end users or IXC's; (2) the existing degree of competition in the long distance industry; 45/ and (3) eventually, the development of full service competition, which cannot go forward on a reasonable basis without forbearance in this context.

Third, forbearance on geographic averaging in this specific instance is consistent with the public interest and advances competition. 46/ It is efficient because it enables customers to bear their own non-traffic sensitive costs in a non-traffic sensitive manner, either directly or indirectly (in the case of the flat rate CCL that IXC's, in turn, recover from subscribers through flat or per-minute charges). Forbearance also removes a potential unreasonable competitive disadvantage that national long distance carriers would bear due to the need to average, within their long distance rates, the subscriber loop costs of high-cost and low-cost ILECs, by comparison with low-cost ILECs that enter long distance markets primarily in their own regions.

Congress foresaw that it might be necessary for the Commission to forbear enforcement of the geographic averaging provision. Indeed, the Conference

45/ See AT&T Corp. to be Reclassified as Non-Dominant Carrier, Order, 11 FCC Rcd 3271, 3303-08, ¶¶ 57-72 (1995).

46/ Sections 10(a)(3) and 10(b), 47 U.S.C. § 160(a)(3) & (b).

Report specifically mentions that in appropriate circumstances, the Commission would be expected to use its authority under Section 10 to relax the geographic averaging prohibition of Section 254(g). ^{47/} Such forbearance, then, would be quite consistent with the expectations of the framers of the 1996 Act.

4. “Dial-Around” and “No-Presubscribed-IXC” Do Not Present Serious Problems.

The Commission seeks comment on the Joint Board’s recommendation to allow ILECs to recover the flat rate CCL charge directly from subscribers that do not have a presubscribed interexchange carrier (“PIC”). ^{48/} WorldCom supports this proposal, which would ensure that incumbent LECs have a reasonable opportunity to recover the loop costs allocated to the interstate jurisdiction, and that end users not be able to avoid such recovery. WorldCom understands that virtually all end user lines today are presubscribed to an IXC, so the impact of this rule should be trivial.

In addition, WorldCom is not concerned about what the Commission refers to as “the potential problem created when end-user customers have selected

^{47/} “The conferees . . . intend that the Commission, where appropriate, could continue to authorize limited exceptions to the general geographic rate averaging policy using the authority provided by new section 10 of the Communications Act.” Conference Report, Telecommunications Act of 1996, H.R. Rpt. 104-458, 104th Cong., 2d Sess. (Jan. 31, 1996), at 132.

^{48/} Notice, ¶ 60 (citing Universal Service Recommended Decision, ¶ 776).

PICs but use other IXC's for . . . interstate services by 'dialing around' the PIC." 49/ To the extent that IXC's that are selected as PICs can recover a flat rate CCL charge by imposing a flat rate charge on their presubscribed end users, and there is no per minute CCL charge burdening IXC rates, then an IXC selected as a PIC will be able to recover its costs even if the presubscribed user uses "dial around" to avoid using that IXC's service. Indeed, a flat rate CCL, combined with forbearance of the geographic averaging requirement in this context, as discussed above, will eliminate incentives for customers to presubscribe to one IXC and use another carrier's long distance service. This approach avoids market distortions virtually completely.

B. Local Switching.

[Notice, Section III-C]

1. Line-Side Port Costs Should Be Recovered In a Non-Traffic Sensitive Manner.

WorldCom supports the Commission's tentative conclusion that it is more reasonable and economically efficient to recover the costs of dedicated line cards through flat charges. These costs vary based on the number of loops, not the quantity of traffic. 50/ The flat charge ideally should be recovered directly from the subscriber, for the same reasons discussed above in the context of subscriber loop

49/ Id.

50/ Notice, ¶ 72.

costs. If the Commission decides that the interstate portion of the cost of line-side local switch ports should be recovered from IXC's, then these costs should be recovered on a flat rate, per-presubscribed line basis, and the Commission must forbear enforcement of the geographic averaging requirements of Section 254(g) with respect to IXC's' recovery of these costs from their customers.

A new mandatory access charge rate element should be established for this new flat rate charge for the line-side local switch port. This element should be segregated in a new, separate price cap service category to prevent incumbent LECs that do not face competition from shifting costs between this and other categories that have different cost characteristics and different degrees of potential competitiveness. While this service category should remain in the same price cap basket as other local switching access rate elements, the Commission should change the name of the overall basket, since not all the elements in it will be "Traffic Sensitive."

While a rate restructure will be required to establish the rates for this new element under the price cap system, the Commission cannot simply allow the incumbent LECs to establish the initial rate level for this new element based on the revenue neutrality test for price cap rate restructures. Rather, the Commission should require forward-looking cost justification for this new rate element, using either a version of TSLRIC or TELRIC, or the price cap new services test -- and in either case, the Commission must be vigilant regarding the allocation of common

costs (in the case of TSLRIC/TELRIC) or so-called “overhead costs” (in the context of the price cap new service test).

Moreover, to establish the initial rate level for this new element, the Commission will have to devise some interim solution to the problem of jurisdictional separations, since interstate access charges should be designed to recover only the interstate costs of the line-side local switch port element and not the total costs. It is WorldCom’s understanding that the existing jurisdictional separations rules divide the cost of the line-side local switch port between the interstate and state jurisdictions based on the proportion of interstate and state usage. This approach is inconsistent with a flat, non-traffic sensitive rate structure to recover these costs. The Commission should reserve the ability to further correct pricing upon reform of the separations rules.

Meanwhile, WorldCom suggests that the Commission work around this separations problem using an interim solution. Specifically, the Commission should develop a proxy based on actual current proportions of interstate traffic. 51/

To derive an interstate rate element, this interstate allocator should be multiplied by the total forward-looking direct costs plus a reasonable share of

51/ Alternatively, the Commission could assume the same jurisdictional allocation for the line-side local switch port as already exists for the subscriber loop: 25% interstate, 75% state. This approach is overly conservative, however, (i.e., it results in excessive revenues to the incumbent LECs) because, for most LECs, less than 25% of the actual traffic is interstate. Therefore, this interim methodology is less preferable.

forward-looking common costs (in a TSLRIC or TELRIC analysis, or the comparable results of a forward-looking price cap new services test). Based on the analysis used to establish proxy rates in the Local Competition First Reconsideration Order, 52/ the total forward-looking cost of the line-side port component of local switching should fall within a range from \$1.10 to \$2.00 per month. Multiplying the end points of this range by 25%, for example, the interstate access rate for the line-side local switch port should be between 27.5 cents and 50 cents per month. WorldCom submits that incumbent LECs should be required to provide a more detailed cost justification to meet a higher standard of proof if they propose a rate for this element exceeding 50 cents per month.

2. The Shared Costs of Local Switching Should Be Recovered in a Manner That Reflects Costs and Promotes Competition.

WorldCom believes that both the rate structure and the pricing issues regarding the recovery of the shared costs of the local switching matrix and the trunk-side ports should be addressed somewhat differently with respect to originating traffic and terminating traffic. 53/ Different rate structure and rate

52/ Local Competition First Reconsideration Order, at ¶ 8.

53/ The Notice indicates that some trunk-side ports are shared facilities but that trunk-side ports used in connection with dedicated transport service are dedicated to individual IXCs. Notice, ¶ 73. We believe this analysis is incorrect, and note that it is contrary to the analysis in the Local Competition Order, e.g., ¶ 810. Trunk ports are always shared facilities. They are connected to interoffice transport facilities, which are shared among multiple uses, including local and interstate traffic and traffic routed to multiple access customers.